

Healthy Schools Act of 2010
D.C. Law 18-209, effective July 27, 2010.
Codified at D.C. Code § 38-821.01 *et seq.*

As amended by:

- **Fiscal Year 2012 Budget Support Act of 2011**
D.C. Law 19-21, effective September 14, 2011.¹
- **Healthy Schools Amendment Act of 2011**
D.C. Law 19-37, effective October 20, 2011.²

Reflecting:

- **Fiscal Year 2013 Budget Support Act of 2012**
D.C. Act 19-385.³

Updated: December 31, 2012

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish local nutritional standards for school meals, to establish healthy vending, fundraising, marketing, and prize requirements in public schools, to require public schools to participate in federal meal programs whenever possible, to solicit feedback about healthy meals, to require public disclosure of ingredients, origin of fruits and vegetables and the nutritional content of school meals, and to provide at least 30 minutes to eat lunch; to establish a farm-to-school program, to create a preference and a monetary

¹ The Fiscal Year 2012 Budget Support Act of 2011, D.C. Law 19-21, became effective on September 14, 2011. However, these changes became effective prior to the start of the 2011-2012 school year by the Fiscal Year 2012 Budget Support Emergency Act of 2011, D.C. Act 19-93, which was passed on June 14, 2011, and took effect on June 23, 2011.

² The Healthy Schools Amendment Act of 2011, D.C. Act 19-37, became effective on October 20, 2011. So that this legislation could take effect before the start of the 2011-2012 school year, the Council also adopted the Healthy Schools Emergency Amendment Act of 2011, D.C. Act 19-143, on July 12, 2011, which took effect on August 15, 2011. .

³ The Fiscal Year 2013 Budget Support Act of 2012, D.C. Act 19-385, passed Second Reading on June 5, 2012 and is projected to become law on September 21, 2012. However, these changes became effective prior to the start of the 2012-2013 school year by the Fiscal Year 2013 Budget Support Emergency Act of 2012, D.C. Act 19-383, which was passed on June 5, 2012, and took effect on June 19, 2012.

incentive to serve locally-grown, unprocessed foods, to require teaching about the benefits of fresh, local foods, to establish programs such as a local flavor week and a harvest of the month, and to require an annual report and recommendations on farm-to-school initiatives; to establish minimum levels of physical education and activity for students, to provide for exemptions for students with disabilities, students with other diagnosed health problems, or schools that lack the facilities, to provide schools with equal access to recreation facilities, to prohibit physical education to be used as punishment, to require minimum amounts of health education, and to require an annual report about the compliance with these requirements; to establish an environmental programs office within the Office of the Public Education Facilities Modernization that would establish comprehensive recycling, energy reduction, and integrated pest management programs at District of Columbia Public Schools and develop a plan to use environmentally friendly cleaning supplies, to require an annual report and recommendations on sustainability, to encourage schools to use more sustainable products in their meal service, to amend the Green Building Act of 2006 and Title 20 of the District of Columbia Municipal Regulations to encourage school construction to achieve LEED Gold certification, to create an environmental literacy plan, to establish a school gardens program, to issue grants to support the development of school gardens, to require a report and recommendations about school gardens, and to permit the sale and consumption of food grown in school gardens when safe; to require schools to collaborate to adopt local wellness policies and update them triennially, to require the inclusion of sustainability and farm-to-school initiatives in local wellness policies, to require local wellness policies to be promoted and shared, to empower the State Superintendent of Education with the authority to verify compliance with their local wellness policies, to require a plan to place a school wellness center at DCPS high schools by 2015, to amend the District of Columbia Public School Nurse Assignment Act of 1987 to give preference after October 1, 2010 in hiring school nurses certified as asthma educators, to require that schools develop allergy plans and appoint an allergy coordinator, to amend Titles 18 and 20 of the District of Columbia Municipal Regulations to prohibit vehicles from idling near schools, to implement the Indoor Air Quality Tools for Schools program; and to establish a Healthy Youth and Schools Commission, to define its function, to require an annual report and recommendations, to set forth the composition and organization of the commission, to define its rules of procedure and powers, and to provide administrative and technical support.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Healthy Schools Act of 2010".

TITLE I. DEFINITIONS; ESTABLISHMENT OF HEALTHY SCHOOLS FUND.

Sec. 101. Definitions.

For the purposes of this act, the term:

(1) “Healthy Schools Fund” means the fund established by section 102.

(2) “Healthy Schools and Youth Commission” means the body established by section 701.

(3) “Locally-grown” means from a grower in Delaware, the District of Columbia, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, or West Virginia.

(4) “Locally-processed” means processed at a facility in Delaware, the District of Columbia, Maryland, New Jersey, North Carolina, Pennsylvania, Virginia, or West Virginia.

(5) “Meals” means breakfast, lunch, or after-school snacks served as a part of the National School Lunch Program, School Breakfast Program, or Summer Food Service Program, or after-school meals served as part of the Child and Adult Care Food Program.

(6) “Moderate-to-vigorous physical activity” means movement resulting in a substantially increased heart rate and breathing.

(7) “Public charter school” means a school chartered under the District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321-107; D.C. Official Code § 38-1800.01 *et seq.*). The term “public charter school” shall not include private or parochial schools.

(6A) “Participating private school” means a private school that participates in the National School Lunch Program, established by the Richard B. Russell National School Lunch Act, approved June 4, 1946 (60 Stat. 230; 42 U.S.C. § 1771 *et seq.*), and elects to participate in the Healthy Schools Act program.

(8) “Public school” means a school operated by the District of Columbia Public Schools, established by section 102 of the District of Columbia Public Schools Agency

Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-171).

(9) “Sustainable agriculture” means an integrated system of plant and animal production practices having a site-specific application that will, over the long-term:

(A) Satisfy human food and fiber needs;

(B) Enhance environmental quality and the natural resource base upon which the agriculture economy depends;

(C) Make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls;

(D) Sustain the economic viability of farm operations; and

(E) Enhance the quality of life for farmers and society as a whole.

(10) (A) “Unprocessed” means foods that are nearest their whole, raw, and natural state, and contain no artificial flavors or colors, synthetic ingredients, chemical preservatives, or dyes.

(B) For the purposes of this paragraph, food which undergoes the following processes shall be deemed to be unprocessed:

(i) Cooling, refrigerating, or freezing;

(ii) Size adjustment through size reduction made by peeling, slicing, dicing, cutting, chopping, shucking, or grinding;

(iii) Drying or dehydration;

(iv) Washing;

(v) The application of high water pressure or “cold pasteurization”;

(vi) Packaging, such as placing eggs in cartons, and vacuum packing and bagging, such as placing vegetables in bags;

(vii) Butchering livestock, fish, or poultry; and

(viii) The pasteurization of milk.

Sec. 102. Establishment of the Healthy Schools Fund.

(a) There is established as a nonlapsing fund the Healthy Schools Fund, which shall be used solely as provided in subsection (c) of this section and administered by the Office of the State Superintendent of Education. The Fund shall be funded by annual appropriations, which shall be deposited into the Fund.

(b) All funds deposited into the Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in subsection (c) of this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) The funds in the Fund shall be used as follows:

(1) To provide additional funding for healthy school meals, the Office of the State Superintendent of Education shall reimburse public schools, ~~and~~ public charter schools, ~~and~~ participating private schools, and organizations participating in the Summer Food Service Program as follows:

(A) Ten cents for each breakfast meal served that meets the requirements of sections 202 and 203; and

(B) Ten cents for each lunch meal served that meets the requirements of sections 202 and 203.

~~(2) To provide free breakfast meals in public charter schools under section 203(a), the Office of the State Superintendent of Education shall reimburse public charter schools as follows:~~

~~(A) Thirty cents for each breakfast meal served to students who qualify for reduced-price meals; and~~

~~(B) The difference between the free and paid rates for breakfasts served in severe-needs schools in the District of Columbia, as determined by the U.S. Department of Agriculture, to students who do not qualify for free or reduced-price meals.~~

(3) To eliminate the reduced-price copayment under section 203(b)(1), the Office of the State Superintendent of Education shall reimburse public schools, ~~and~~ public charter schools, and participating private schools 40 cents for each lunch meal that meets the requirements of sections 202 and 203 and is served to students who qualify for reduced-price meals.

(4) To provide resources to implement the breakfast-in-the-classroom program under section 203(a)(2), ~~for the 2010-2011 school year, the Office of the State Superintendent of Education shall provide \$7 per student to public schools and public charter schools participating in the National School Lunch Program, in which more than 40% of students qualify for free or reduced-price meals., the Office of the State Superintendent of Education shall provide a one-time subsidy of \$7 per student to new public schools, new public charter schools, and new private schools, that have not previously received the funds and that participate in the National School Lunch Program, in which more than 40% of students qualify for free or reduced-price meals., that have not previously received the funds,~~

(5) (A) To encourage local foods to be served in schools, the Office of the State Superintendent of Education shall provide an additional 5 cents per ~~lunch meal~~ day reimbursement to public schools, ~~and~~ public charter schools, and participating private schools when at least one component of a reimbursable breakfast or lunch meal is comprised entirely of locally-grown and unprocessed foods; provided, that the schools report the name and address of the farms where the locally-grown foods were grown to the Office of the State Superintendent of Education.

(B) For purposes of this paragraph, the term “locally grown and unprocessed foods” shall not include milk.

(6) To increase physical activity in schools, the Office of the State Superintendent of Education shall make grants available through a competitive process to public schools and public charter schools; provided, that schools shall meet the requirements of section 402 and seek to increase the amount of physical activity in which their students engage.

(7) To support school gardens, the Office of the State Superintendent of Education shall make grants available through a competitive process to public schools, public charter schools, and other organizations.

(d) The Office of the State Superintendent of Education may, by rule, increase the amounts, as set forth in subsection (c) of this section, to further improve the quality and nutrition of school meals.

(e) The Office of the State Superintendent of Education may withhold local funds provided by subsection (c) of this section from public schools and public charter schools that do not meet any or all of the requirements of sections 202, 203, 205, and 206.

(f) Beginning on October 1, 2011, an amount of \$4,266,000 from the revenues derived from the collection of the tax imposed upon all vendors by D.C. Official Code § 47-2002 shall be deposited annually into the Fund.

(g) All excess monies remaining in the Fund at the end of a fiscal year shall be administered by the Office of the State Superintendent of Education for the purposes set forth in subsections (c)(6) and (7) of this section, and to further improve health, wellness, and nutrition in schools.

TITLE II. SCHOOL NUTRITION.

Sec. 201. Goals.

(a) Public schools, ~~and~~ public charter schools, and participating private schools shall serve healthy and nutritious meals to students. Schools are strongly encouraged to consider serving vegetarian food options each week.

(b) Public schools, ~~and~~ public charter schools, and participating private schools are strongly encouraged to participate in the United States Department of Agriculture's HealthierUS School Challenge program and achieve Gold Award Level certification.

Sec. 202. Nutritional standards for school meals.

(a) All breakfast, lunch, ~~and~~ after-school snacks and suppers, and summer meals served to students in public schools, ~~and~~ public charter schools, and participating private schools or by organizations participating in the Afterschool Meal Program or the Summer Food Service Program shall meet or exceed the federal nutritional standards set forth in:

(1) The Child Nutrition Act of 1996, approved October 11, 1996 (80 Stat. 885; 42 U.S.C. § 1771 *et seq.*);

(2) The Richard B. Russell National School Lunch Act, approved June 4, 1946 (60 Stat. 230; 42 U.S.C. § 1751 *et seq.*);

(3) 7 C.F.R. Parts 210, 215, 220, 225, and 226; and

(4) Other applicable federal law.

(b) In addition to the requirements of subsection (a) of this section, breakfast, ~~and~~ lunch, after school snacks and suppers, and summer meals served to students in each public school, ~~and~~ public charter school, and participating private school or by organizations participating in the Afterschool Meal Program or Summer Food Service Program shall meet or exceed:

(1) The following nutritional requirements per serving:

(A) Saturated fat: Fewer than 10% of total calories;

(B) Trans fat: Zero grams; and

(C) (i) Sodium:

(I) For breakfast meals:

(aa) Less than 430 mg for Grades Kindergarten through 5;

(bb) Less than 470 mg for Grades 6 through 8; and

(cc) Less than 500 mg for Grades 9 through 12.

(II) For lunch meals:

(aa) Less than 640 mg for Grades Kindergarten through 5;

(bb) Less than 710 mg for Grades 6 through 8; and

(cc) Less than 740 mg for Grades 9 through 12.

(ii) The requirements of this subparagraph shall not apply until ~~July~~August 1, 202~~20~~29; provided, that public schools, ~~and~~ public charter schools, and participating private schools shall gradually reduce the amount of sodium served in school meals.

(2) The serving requirements of the United State Department of Agriculture's HealthierUS School Challenge program at the Gold Award Level for vegetables, fruits, whole grains, milk, and other foods served in school meals, as may be revised from time to time, notwithstanding any termination.

(c) The Office of the State Superintendent of Education may adopt standards that exceed the requirements of this section.

Sec. 203. Additional requirements for public school meals.

(a) (1) Public schools, ~~and~~ public charter schools, and participating private schools shall offer free breakfast to all students.

(2) If more than 40% of the students at a school qualify for free or reduced-price meals:

(A) A public elementary school, ~~and-a~~ public charter elementary school, and participating private elementary school shall offer breakfast in the classroom each day; and

(B) A public middle and high school, ~~and-a~~ public charter middle and high school, and participating private middle and high school shall offer alternative serving models, such as breakfast in the classroom or grab-and-go carts, in one or more locations with high student traffic, other than the cafeteria, each day to increase breakfast participation.

(C) The requirements of this paragraph shall not apply to a public school or a public charter school in which the school's current breakfast participation rate, without breakfast-in-the-classroom, exceeds 75% of its average daily attendance.

(b) Public schools, ~~and~~ public charter schools, and participating private schools shall:

- (1) Not charge students for meals if the students qualify for reduced-price meals;
- (2) Provide meals that meet the dietary needs of children with diagnosed medical conditions as required by a physician;
- (3) Solicit input from students, faculty, and parents, through taste tests, comment boxes, surveys, a student nutrition advisory council, or other means, regarding nutritious meals that appeal to students;
- (4) Promote healthy eating to students, faculty, staff, and parents;
- (5) Provide at least 30 minutes for students to eat lunch and sufficient time during the lunch period for every student to pass through the food service line; and
- (6) Participate in federal nutritional and commodity foods programs whenever possible.

(c) Public schools, ~~and~~ public charter schools, and participating private schools ~~are encouraged to~~ shall make cold, filtered water available free to students, through water fountains or other means, when meals are served to students in public schools and public charter schools.

Sec. 204. Central kitchen.

(a) The District of Columbia Public Schools shall establish a central facility in the District to:

- (1) Prepare, process, grow, and store healthy and nutritious foods for schools and nonprofit organizations;

(2) Support nutrition education programs; and

(3) Provide job-training programs for students and District residents.

(b) The District of Columbia Public Schools shall provide reasonable access to charter schools that wish to use the facility.

(c) The Department of ~~Real Estate~~ General Services shall assist the District of Columbia Public Schools in selecting real property for the facility and the ~~Office of Public Education~~ Facilities Modernization Department of General Services shall convert the real property into the facility.

(d) On or before December 31 of each year until the project is completed, the District of Columbia Public Schools, in consultation with the Department General Services, shall issue a report to the Mayor, the Council, and the Healthy Schools and Youth Commission documenting progress on the development of the central kitchen.

Sec. 205. Public disclosure.

(a) Food service providers shall provide the following information to public schools, ~~and~~ public charter schools, and participating private schools:

(1) The menu for each breakfast and lunch meal served;

(2) The nutritional content of each menu item;

(3) The ingredients for each menu item if requested by parents and legal guardians; and

(4) The location where fruits and vegetables served in schools are grown and processed and whether growers are engaged in sustainable agriculture practices.

(b) (1) Public schools, ~~and~~ public charter schools, and participating private schools shall ~~post~~ provide the information provided to them under subsection (a) of this section:

(A) In the school's office; ~~and~~

(B) Online, if the school has a website; ~~and~~

(C) To parents and legal guardians upon request.

(2) Public schools, ~~and~~ public charter schools, and participating private schools shall inform families that vegetarian food options and milk alternatives are available upon request.

(c) This section shall apply as of January 1, 2012.

Sec. 206. Healthy vending, fundraising, and prizes in public schools.

(a) Except as provided by subsection (b) of this section, all beverages and snack foods provided by or sold in public schools, ~~and~~ public charter schools, and participating private schools or provided by organizations participating in the Afterschool Meal Program, whether through vending machines, fundraisers, snacks, after-school meals, or other means, shall meet the requirements of the United State Department of Agriculture's HealthierUS School Challenge program at the Gold Award Level for competitive foods, as may be revised from time to time, notwithstanding any termination.

(b) The requirements of subsection (a) of this section shall not apply to:

(1) Food and drinks available only to faculty and staff members; provided, that school employees shall be encouraged to model healthy eating;

(2) Food provided at no cost by parents;

(3) Food sold or provided at official after-school events; ~~and~~

(4) Adult education programs; ~~and~~

(5) Food not consumed or marketed to students.

(c) The Office of the State Superintendent of Education may adopt standards that exceed the requirements set forth in subsections (a) and (b) of this section.

(d) Foods and beverages sold in public school, ~~and~~ public charter school, and participating private school stores shall meet the requirements of subsection (a) of this section.

(e) Public schools, ~~and~~ public charter schools, and participating private schools shall not permit third parties, other than school-related organizations and school meal service providers, to sell foods or beverages of any type to students on school property from 90 minutes before the school day begins until 90 minutes after the school day ends.

(f) Foods and beverages that do not meet the nutritional requirements of subsection (a) of this section shall not be:

(1) Used as incentives, prizes, or awards in public schools or public charter schools; or

(2) Advertised or marketed in public schools and public charter schools through posters, signs, book covers, scoreboards, supplies, equipment, or other means.

(g) After first issuing a warning, the Office of the State Superintendent of Education may impose a penalty, not to exceed \$500 per day paid to the Healthy Schools Fund, on public schools and public charter schools that violate this section, subject to the right to a hearing requested within 10 days after the notice of imposition of the penalty is sent.

Sec. 207. Triennial review.

The Healthy Schools and Youth Commission shall review school nutrition and the requirements of this title at least every 3 years and recommend improvements to the Mayor and the Council.

TITLE III. FARM-TO-SCHOOL PROGRAM.

Sec. 301. Local food sourcing, reimbursement, and education.

Public schools and public charter schools shall serve locally-grown, locally-processed, and unprocessed foods from growers engaged in sustainable agriculture practices whenever possible. Preference shall be given to fresh unprocessed agricultural products grown and processed in the District of Columbia, Maryland, and Virginia.

Sec. 301a. Comprehensive food services plan.

(a) Before February 15, 2013, the City Administrator shall transmit to the Council and to the Healthy Schools and Youth Commission a comprehensive food services plan that shall include:

(1) A plan to reduce the cost of providing food services in the District of Columbia Public Schools (“DCPS”), without reducing the quality, taste, or nutritional standards of the food being served, including an:

(A) Examination of how similar jurisdictions provide food services in schools;

(B) Explanation of the cost drivers in the DCPS food services program;

(C) Accounting of:

(i) The local funds subsidies (net losses) required by federal programs for each year since fiscal year 2007, including the total subsidy per year and the subsidy per meal served per year;

(ii) Whether the District has received all of the rebates, credits, and other funds owed by its current food-service vendors;

(D) An evaluation of whether preparing meals internally without an outside vendor would reduce costs; and

(E) An implementation plan and timeline for the DCPS food services program to become cost-neutral;

(2) An analysis of the efficiencies and savings that could be gained by combining the food services programs in:

_____ (A) The Department of Corrections;

_____ (B) The Department of Human Services;

_____ (C) The Department of Mental Health;

_____ (D) The Department of Parks and Recreation;

_____ (E) The District of Columbia Public Schools;

_____ (F) The Office of Aging; and

_____ (G) Other agencies;

(3) An analysis of whether a centralized food services program could offer public charter schools the opportunity to purchase meals from it, instead of from a private vendor; and

(4) An analysis of how the District's food service programs can become more sustainable.

(b) The City Administrator shall be assisted in preparing the plan required by subsection (a) of this section by the:

_____ (1) District of Columbia Public Schools;

_____ (2) Office of the State Superintendent of Education;

(3) Department of General Services;

_____ (4) Mayor's Office of Budget and Finance;

(5) Council's Budget Office;

(6) Office of the Chief Financial Officer; and

(7) City Administrator.

Sec. 302. Programs.

The Office of the State Superintendent of Education shall, in conjunction with the Department of Health, the Department of Parks and Recreation, the District Department of the Environment, the University System of the District of Columbia, community organizations, food service providers, public schools, and public charter schools, develop programs to promote the benefits of purchasing and eating locally-grown and unprocessed foods that are from growers engaged in sustainable agriculture practices. At minimum, the Office of the State Superintendent of Education shall conduct at least one program per year, such as an annual local flavor week or a harvest of the month program, in collaboration with other District agencies and nonprofit organizations.

Sec. 303. Mandatory reporting.

On or before ~~September~~ June 30 of each year, the Office of the State Superintendent of Education shall submit to the Mayor, the Council, and the Healthy Schools and Youth Commission a comprehensive report on the District's farm-to-school initiatives and recommendations for improvement.

Sec. 304. Section 729 of Title 19 of the District of Columbia Municipal Regulations is amended by adding a new subsection 729.3 to read as follows:

“729.3 The provisions of this section shall not preclude the use of public recreation facilities by programs to provide community access to healthy foods, such as farmers' markets.”.

TITLE IV. PHYSICAL AND HEALTH EDUCATION.

Sec. 401. Physical activity goals.

(a) It shall be the goal of the District of Columbia for children to engage in physical activity for 60 minutes each day.

(b) Public schools and public charter schools shall promote this goal.

(c) Public schools and public charter schools shall seek to maximize physical activity by means including:

- (1) Extending the school day;
- (2) Encouraging students to walk or bike to school;
- (3) Promoting active recess;
- (4) Including physical activity in after-school activities;
- (5) Supporting athletic programs; and
- (6) Integrating movement into classroom instruction.

Sec. 402. Physical and health education requirements.

(a) Public schools and public charter schools shall provide physical education as follows:

(1) For students in Kindergarten through Grade 5:

(A) School years 2010-2011 to 2013-2014: an average of at least 30 minutes per week or the same level of physical education as provided in school year 2009-2010, whichever is greater; and

(B) School year 2014-2015 and after: an average of at least 150 minutes per week;

(2) For students in Grades 6 through 8:

(A) School years 2010-2011 to 2013-2014: an average of at least 45 minutes per week or the same level of physical education as provided in school year 2009-2010, whichever is greater; and

(B) School year 2014-2015 and after: an average of at least 225 minutes per week.

(3) At least 50% of physical education class time shall be devoted to actual physical activity, with as much class time as possible spent in moderate-to-vigorous physical activity.

(b) Public schools and public charter schools shall provide health education to students in Grades Kindergarten through 8 as follows:

(1) School years 2010-2011 to 2013-2014: an average of at least 15 minutes per week or the same level of health education as provided in school year 2009-2010, whichever is greater; and

(2) School year 2014-2015 and after: an average of at least 75 minutes per week;

(c) The State Board of Education, with assistance from the Office of the State Superintendent of Education, shall consider ways to expand physical education in high schools.

(d) The physical education and health education required by this section shall meet the curricular standards adopted by the State Board of Education.

Sec. 402a. Interscholastic athletics plan.

(a) On or before February 15, 2013, the Office of the State Superintendent of Education shall transmit to the Council a strategic plan for increasing access to, participation in, and the quality of an interscholastic athletics program in District of Columbia Public Schools and public charter schools by the 2014-2015 school year.

(b) The strategic plan shall include a description of:

(1) The level of programs needed to ensure greater access to interscholastic athletics;

(2) The resources required to operate a robust interscholastic athletics program throughout the public schools;

(3) How District facilities may be better utilized to provide for interscholastic athletics; and

(4) The effect of a robust athletics program on student health and community involvement.

Sec. 403. Additional requirements.

(a) A student with disabilities shall have suitably adapted physical education incorporated as part of the individualized education program developed for the student. With a written note from a physician, public schools and public charter schools may provide suitably adapted physical education for any other student with special needs that preclude the student from participating in regular physical education instruction.

(b) Requiring or withholding physical activity shall not be used to punish students; provided, that students who are not wearing appropriate athletic clothing may be prohibited from participating in physical activity until properly dressed.

Sec. 404. Access to public facilities.

The Department of Parks and Recreation shall provide equal access and shall charge equal fees to both public schools and public charter schools for the use of its recreation centers, fields, playgrounds, and other facilities.

Sec. 405. Mandatory reporting.

Beginning in 2011, on or before September 30 of each year, the Office of the State Superintendent of Education shall report to the Mayor, the Council, and the Healthy Schools and Youth Commission annually regarding:

(1) Compliance of public schools and public charter schools with the physical and health education requirements in this title; and

(2) Student achievement with respect to health and physical education standards.

Sec. 406. Conforming amendment.

Section 717.1 of Title 19 of the District of Columbia Municipal Regulations is amended to read as follows: “717.1 The recreational use of properties under the direct control of the Department shall have direct precedence over use for other purposes, except where recreation properties in the immediate vicinity of a public school or charter school are the only recreation facilities available for school use.”.

TITLE V. ENVIRONMENT.

Sec. 501. Environmental programs office.

(a) An environmental programs office is established in the ~~Office of Public Education~~ Facilities Modernization Department of General Services and shall:

(1) (A) Contract with vendors to recycle all materials required by District law at all public schools, including food services, by December 31, ~~2010~~ 2011, and provide technical assistance to public charter schools about recycling;

(B) The contracts under subparagraph (a) of this paragraph shall be negotiated to provide a financial incentive to reduce the amount of waste created in public schools and, when possible, to increase diversion rates in public schools;

(2) Develop a master recycling plan for public schools on or before December 31, 2010 to reach a system-wide diversion rate of 45% by August 1, 2015;

(3) Analyze utility usage at each public school and develop a plan to reduce that amount by 20% on or before August 1, 2015;

(4) Establish an integrated pest management program;

(5) Test drinking water in public schools for lead and promptly take any remedial action required;

(6) Comply with the Environmental Protection Agency's Lead; Renovation, Repair, and Painting Program, established by 40 C.F.R. Part 745;

(7) Post the results of its environmental testing online; ~~and~~

(8) Promote the Environmental Protection Agency's Indoor Air Quality Tools for Schools Program to reduce exposure to environmental factors that impact asthma among children and adults in public schools- ~~;~~ and

(9) Develop an electronic recycling policy for public schools on or before December 31, 2011; and

(10) Establish a composting program in District of Columbia Public Schools.

(b) The District of Columbia Public Schools shall:

(1) Use environmentally-friendly cleaning supplies in public schools; provided, that the agency may exhaust its current supply of conventional cleaners; and

(2) Prepare and transmit to the Mayor, the Council, and the Healthy Schools and Youth Commission, on or before December 31, ~~2010~~2012, a plan to use sustainable products in serving meals to students.

(c) On or before December 31, ~~2010-2011~~ 2012, the Mayor shall prepare and transmit to the Council a comprehensive report describing the implementation of recycling, composting, energy-reduction, pest management, air quality, and environmentally-friendly cleaning supplies programs in public schools. The report shall include:

(1) A thorough, school-by-school breakdown of the waste stream in public schools, including tonnages, components, and diversion rates;

(2) Baseline energy usage, an analysis of usage patterns, and savings achieved;

(3) Recommendations and a timeline for further implementing these programs;

and

(4) A proposal for recognizing and rewarding schools that significantly improve their environmental portfolio.

Sec. 502. Environmental literacy plan.

(a) The District Department of the Environment, in conjunction with the District of Columbia Public Schools, the Department of Parks and Recreation, the Public Charter School Board, the Office of the State Superintendent of Education, the State Board of Education, and the University System of the District of Columbia, shall develop an environmental literacy plan for public schools and public charter schools.

(b) The Environmental Literacy Plan shall, at a minimum, describe the following:

(1) Relevant teaching and learning standards adopted by the State Board of Education;

(2) Professional development opportunities for teachers;

(3) How to measure environmental literacy;

(4) Governmental and nongovernmental entities that can assist schools; and

(5) Implementation of the Plan.

(c) The District Department of the Environment shall transmit the Environmental Literacy Plan to the Mayor and the Council by June 30, 2012.

Sec. 503. School Gardens Program.

(a) A School Gardens Program is established within the Office of the State Superintendent of Education. The School Gardens Program shall:

(1) Coordinate the efforts of community organizations, the Department of Parks and Recreation, the District Department of the Environment, the District of Columbia Public Schools, the ~~Office of Public Education Facilities Modernization~~ Department of General Services, the Public Charter School Board, and the University System of the District of Columbia to establish gardens as integral components of public schools and public charter schools;

(2) Complement the Food Production and Urban Gardens Program, established by Section 3 of the Food Production and Urban Gardens Program Act of 1986, effective February 28, 1987 (D.C. Law 6-210; D.C. Official Code § 48-402);

(3) Establish and convene a Garden Advisory Committee, composed of community organizations, District government agencies, and other interested persons;

(4) Collect data on the location and types of gardens in public schools and public charter schools;

(5) Provide horticultural guidance and technical assistance to public schools and public charter schools;

(6) Coordinate curricula for school gardens and related projects; ~~and~~

(7) Provide training, support, and assistance to gardens in public schools and public charter schools- ; and

(8) Assist public schools and public charter schools in receiving certification as U.S. Department of Education Green Ribbon Schools.

(b) On or before June 30, ~~2011~~ 2012, the School Gardens Program shall issue a report to the Mayor, the Council, and the Healthy Schools and Youth Commission about the state of school gardens in the District of Columbia, plans for expanding them, and recommendations for improving the program.

(c) The University System of the District of Columbia shall assist the School Gardens Program by providing technical expertise, curricula, and soil testing for school gardens.

(d) As permitted by federal law, when tests show that the soil is safe and when produce is handled safely, produce grown in school gardens may be identified and served to students at the school, including in the cafeteria. Produce grown in school gardens may be sold and the proceeds from such sales shall be expended for the benefit the public school where the produce was grown.

(e) School gardens shall include a demonstration compost pile when feasible.

Sec. 504. The Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.01 *et seq.*), is amended as follows:

(a) Section 3(b)(1)(C)(iii) (D.C. Official Code § 6-1451.02(b)(1)(C)(iii)) is amended by adding a new sentence at the end to read as follows:

“Notwithstanding the foregoing sentence, the District shall meet LEED for Schools certification at the Gold level or higher if sufficient funding for the construction or renovation is provided.”.

(b) Section 4(b)(2)(B) (D.C. Official Code § 6-1451.03(b)(2)(B)) is amended by adding a new sentence at the end to read as follows:

“Schools shall aspire to meet LEED for Schools certification at the Gold level or higher.”.

Sec. 505. Section 3(3)(D) of the Food Production and Urban Gardens Program Act of 1986, effective February 28, 1987 (D.C. Law 6-210; D.C. Official Code § 48-402 (3)(D)), is amended by striking the phrase “Board of Education of the District of Columbia” and inserting the phrase “Office of the State Superintendent of Education” in its place.

Sec. 506. Section 3501 of Chapter 35 of Title 20 of the District of Columbia Municipal Regulations is amended by adding a new subsection 3501.3 to read as follows:

“3501.3 For both newly constructed and substantially improved public schools, the District shall aspire to meet LEED for Schools certification at the Gold level or higher.”.

Sec. 507. Section 704 of the Office of Public Education Facilities Modernization Establishment Act of 2007, effective June 12, 2007 (D.C. Law 17-9; D.C. Official Code § 38-453), is amended by adding a new paragraph (7B) to read as follows:

“(7B) Direct and supervise the environmental programs office established pursuant to Section 501 of the Healthy Schools Act of 2010, passed on 2nd reading on May 4, 2010 (Enrolled version of Bill 18-564).”.

TITLE VI. HEALTH AND WELLNESS.

Sec. 601. Local wellness policies.

(a) As required by federal law, each local educational agency shall collaborate with parents, students, food service providers, and community organizations to develop, adopt, and

update a comprehensive local wellness policy. Local wellness policies shall be revised at least once every 3 years.

(b) Local wellness policies shall include:

(1) The requirements set forth in federal law; and

(2) Goals for:

(A) Improving the environmental sustainability of schools;

(B) Increasing the use of locally-grown, locally-processed, and unprocessed foods from growers engaged in sustainable agriculture practices; and

(C) Increasing physical activity.

(c) Public schools and public charter schools shall promote their local wellness policy to faculty, staff, parents, and students. A copy shall be:

(1) Posted on each school's website, if it has one;

(2) Distributed to food service staff members;

(3) Distributed to the school's parent/teacher organization, if it has one; and

(4) Made available in each school's office.

(d) The Office of the State Superintendent of Education shall review each local wellness policy to ensure that it complies with federal requirements and shall examine whether schools comply with their policies.

Sec. 602. School health profiles.

(a) On or before ~~January~~ February 15 of each year, each public school and public charter school shall submit the following information to the Office of the State Superintendent of Education regarding each of its campuses:

(1) Health programs:

(A) Whether the school has full-time, part-time, or no nurse coverage;
(B) The name and contact information of the school's nurse;
(C) Whether the school has school-based mental health program or offers similar services on site;

(D) Whether there is a certified or highly qualified health teacher on staff;
~~and~~

(E) Whether there is a school-based health center;

(F) The number of students qualifying for free, reduced-price and paid meals;

(G) For the most recent November, the average daily participation in the national school breakfast and school lunch programs with breakdowns for the number of free, reduced-price and paid students participating in school breakfast and lunch programs on an average daily basis;

(H) Whether your school participates in Afterschool Meal Snack and Supper Program and if so, the number of children served snacks and suppers on an average daily basis;

(I) For elementary schools, whether your school participates in the Fresh Fruit and Vegetable Snack Program;

(J) Whether your school participates in D.C. Free Summer Meals Program and if so, the number of breakfasts, lunches, suppers, and snacks served on an average daily basis the preceding summer;

(K) Whether your school has vending machines and if so, how many vending machines, the hours of operation of said vending machines, and what items are sold from the machines; and

(L) Whether your schools has a school store and if so, what food and beverages are sold and the hours of operation.

(2) Nutrition programs:

(A) The name of the school's food service vendor;

(B) Whether the school's meals meet the nutritional standards required by federal and District law;

(C) Where the information required by section 205 can be found;

(D) Whether the school participates in the farm-to-school program under section 301; and

(E) Whether the school participates in the School Gardens Program under section 503;

(3) Physical and health education:

(A) The average amount of weekly physical education that students receive in each grade;

(B) The average amount of weekly health education that students receive in each grade; and

(C) How the school promotes physical activity;

(4) Wellness policy:

(A) Whether the school is in compliance with its local wellness policy; and

(B) Where a copy of the school's local wellness policy can be found.

(b) The Office of the State Superintendent of Education may, ~~by rule,~~ change the information, as set forth in subsection (a) of this section, to be included in the healthy schools profile form.

(c) On or before ~~January~~ February 15 of each year, each public school and public charter school shall post the information required by subsection (a) of this section online if the school has a website and make the form available to parents in its office.

(d) The Office of the State Superintendent of Education shall post the information required by subsection (a) of this section on its website within ~~14~~ 30 days of receipt.

Sec. 603. School health centers.

(a) The Department of Health, in conjunction with the Department of Healthcare Finance, the District of Columbia Public Schools, the ~~Office of Public Education Facilities Modernization~~ Department of General Services, and the Public Charter School Board, shall develop a plan to establish and operate school health centers in public schools and public charter schools on or before December 31, 2015.

(b) The plan shall include the following:

(1) A needs assessment to determine where school health centers shall be located, including a justification for any determination that a school health center is not needed at a public high school; and

(2) A proposal for financial sustainability for the school health centers.

(c) The plan shall be submitted to the Mayor, the Council, and the Healthy Schools and Youth Commission on or before December 31, ~~2010~~ 20112012.

Sec. 604. School nurses.

The square footage of a nurse's suite shall not be a determining factor as to whether or not a school nurse is placed at a public charter school; provided, that all other conditions as required by the Department of Health are met.

Sec. 605. Section 3 of the Student Health Care Act of 1985, effective December 3, 1985 (D.C. Law 6-66; D.C. Official Code § 38-602), is amended as follows:

(a) Subsection (a) is amended to read as follows:

“(a) Except as provided in section 4, each student attending prekindergarten through grade 12 in a public, public charter, private, or independent school in the District of Columbia shall furnish the school annually with a certificate of health completed and signed by a physician or advanced practice nurse who has examined the student during the 12-month period immediately preceding the 1st day of the school year or the date of the student's enrollment in the school, whichever occurs later. The examination shall cover all items required by the certificate of health form for the student's particular age group.”.

(b) Subsection (c) is amended to read as follows:

“(c) The Mayor shall develop standard forms for certificates of health, testing for lead poisoning, and dental health, and shall make blank forms available in sufficient quantities to carry out the purposes of this act. The certificate of health form shall contain, at a minimum, the following:

“(A) All items required by the American Academy of Pediatrics for each relevant age group; and

“(B) A plain language explanation of the following:

“(i) Body mass index;

“(ii) How to access health insurance programs; and

“(iii) How to contact school nurses.”.

Sec. 606. Subsections 2148.3 of Title 18 and 900.1 of Title 20 of the District of Columbia Municipal Regulations are amended to read as follows:

“No person owning, operating, or having control over the engine of a gasoline or diesel powered motor vehicle on public or private space, including the engine of a public vehicles for hire, buses with a seating capacity of twelve (12) or more persons, and school buses or any vehicle transporting students, shall allow that engine to idle for more than three (3) minutes while the motor vehicle is parked, stopped, or standing, including for the purpose of operating air conditioning equipment in those vehicles, except as follows:

“(a) To operate private passenger vehicles;

“(b) To operate power takeoff equipment including, dumping, cement mixers, refrigeration systems, content delivery, winches, or shredders; or

“(c) To idle the engine for no more than five (5) minutes to operate heating equipment when the ambient air temperature is thirty-two degrees Fahrenheit (32°F) or below.”.

Sec. 607. Tobacco-free school campuses.

(a) Tobacco and tobacco products are prohibited in public school and public charter school buildings, grounds, parking lots, parking garages, playing fields, school buses and other vehicles, and at off-campus school-sponsored events.

(b) For a public charter school located in a mixed-use facility, the requirements of subsection (a) of this section shall apply only to the buildings, grounds, parking lots, garages, and fields under the control of the public charter school.

TITLE VII. – HEALTHY YOUTH AND SCHOOLS COMMISSION

Sec. 701. Establishment of the Healthy Youth and Schools Commission.

(a) There is established a Healthy Youth and Schools Commission with the purpose of advising the Mayor and the Council on health, wellness, and nutritional issues concerning youth and schools in the District, including:

- (1) School meals;
- (2) Farm-to-school programs;
- (3) Physical activity and physical education;
- (4) Health education;
- (5) Environmental programs;
- (6) School gardens;
- (7) Sexual health programming;
- (8) Chronic disease prevention;
- (9) Emotional, social, and mental health services;
- (10) Substance abuse; and
- (11) Violence prevention.

(b) Specific functions of the Commission shall include the following:

- (1) Advising on the operations of all District health, wellness, and nutrition programs;
- (2) Reviewing and advising on the best practices in health, wellness, and nutrition programs across the United States;
- (3) Recommending standards, or revisions to existing standards, concerning the health, wellness, and nutrition of youth and schools in the District;

(4) Advising on the development of an ongoing program of public information and outreach programs on health, wellness, and nutrition;

(5) Making recommendations on enhancing the collaborative relationship between the District government, the federal government, the University System of the District of Columbia, local nonprofit organizations, colleges and universities, and the private sector in connection with health, wellness, and nutrition;

(6) Identifying gaps in funding and services, or methods of expanding services to District residents; and

(7) Engaging students in improving health, wellness, and nutrition in schools.

(c) On or before ~~September 30~~ November 30 of each year, the Commission shall submit to the Mayor and the Council a comprehensive report on the health, wellness, and nutrition of youth and schools in the District. The report shall:

(1) Explain the efforts made within the preceding year to improve the health, wellness, and nutrition of youth and schools in the District;

(2) Discuss the steps that other states have taken to address the health, wellness, and nutrition of youth and schools; and

(3) Make recommendations about how to further improve the health, wellness, and nutrition of youth and schools in the District.

Sec. 702. Composition and organization of the commission.

(a) The Commission shall be composed of 13 members who are experts in health, wellness, or nutrition; parents; teachers; or students. The Mayor shall appoint 10 members, no more than 5 of whom shall represent District agencies. The Chairman of the Council shall

appoint one member. The chair of the Council committee with oversight of education shall appoint one member. The Chair of the Public Charter School Board shall appoint one member.

(b) Members shall serve 3-year terms on the Commission, except that:

(1) Of the Mayor's first 10 persons appointed, 4 shall be appointed to serve 3-year terms, 3 shall be appointed to serve 2-year terms, and 3 shall be appointed to serve one-year terms; and

(2) Students shall serve for one year.

(c) The Mayor shall designate one member of the Commission to serve as its Chairperson.

(d) A member shall serve for no more than 2 consecutive, full terms.

(e) Unless excused by the Chairperson, any member who fails to attend 3 consecutive meetings shall be deemed to be removed from the Commission, creating a vacancy.

(f) Each member of the Commission shall serve without compensation; provided, that each member may be reimbursed for actual expenses pursuant to section 1108 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08).

Sec. 703. Rules of procedure and powers.

(a) The Chairperson of the Commission, or his or her designated representative, who shall be a member of the Commission, shall convene all meetings of the Commission. Seven members of the Commission shall constitute a quorum. Voting by proxy shall not be permitted.

(b) All meetings, reports, and recommendations shall be a matter of public record.

(c) The Commission shall establish its meeting schedule; provided, that the Commission shall meet at least 4 times during each calendar year.

(d) The Commission may establish subcommittees as needed. Subcommittees may include persons who are not members of the Commission; provided, that each subcommittee shall be chaired by a Commission member.

Sec. 704. Administration.

Subject to appropriations, the Office of the State Superintendent of Education shall provide administrative and technical support to the Commission as necessary.

**TITLE VIII. RULES; APPLICABILITY;
FISCAL IMPACT STATEMENT; EFFECTIVE DATE.**

Sec. 801. Rules.

The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

Sec. 802. Applicability.

(a) Title II shall apply as of August 1, 2010.

(b) This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 803. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

Sec. 804. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.